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11 G & G Closed Circuit Events, LLC

12 UNITED STATES DISTRICT COURT
13 FOR THE
14 DISTRICT OF ARIZONA
15 PHOENIX DIVISION

16 G & G Closed Circuit Events, LLC,
17 Plaintiff,

18 vs.

19 Patricia E. Hernandez and Carlos Alcantara
20 Mijangos, individually and d/b/a Las 15
21 Salsas Restaurant Oaxaqueno; and Fandango
22 Group, LLC, an unknown business entity
23 d/b/a Las 15 Salsas Restaurant Oaxaqueno,

24 Defendants.

Case No.:

COMPLAINT

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PLAINTIFF ALLEGES:

JURISDICTION

1. Jurisdiction is founded on the existence of a question arising under particular statutes. This action is brought pursuant to several federal statutes, including the Communications Act of 1934, as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection and Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*

2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. Section 1331, which states that the District Courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties, of the United States. This Court has subject matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 (supplemental jurisdiction).

3. This Court has personal jurisdiction over the parties in this action as a result of the Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at length. The Defendants' wrongful acts consisted of the interception, reception, publication, divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the control of the Plaintiff in the State of Arizona.

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VENUE

4. Pursuant to Title 47 U.S.C. Section 605, venue is proper in the District of Arizona, because a substantial part of the events or omissions giving rise to the claim occurred in this District.

INTRADISTRICT ASSIGNMENT

5. Assignment to the Phoenix Division of the District of Arizona is proper because a substantial part of the events or omissions giving rise to the claim occurred in Maricopa County and/or, the United States District Court for the District of Arizona has decided that suits of this nature, and each of them, are to be heard by the Courts in this particular Division.

THE PARTIES

6. Plaintiff, G & G Closed Circuit Events, LLC is, and at all relevant times mentioned was, a California corporation with its principal place of business located at 2925 Green Valley Parkway, Suite D, Henderson, Nevada 89014.

7. Defendant Patricia E. Hernandez is a managing member of Fandango Group, LLC, which owns and operates the commercial establishment doing business as Las 15 Salsas Restaurant Oaxaqueno operating at 722 West Hatcher Road, Phoenix, AZ 85021.

8. Defendant Patricia E. Hernandez is also an individual specifically identified on the Arizona Corporations Commission Entity Details No. L19022632 for Fandango Group, LLC as a Member.

1 9. Defendant Carlos Alcantara Mijangos is a managing member of Fandango Group,
2 LLC, which owns and operates the commercial establishment doing business as Las 15
3 Salsas Restaurant Oaxaqueno operating at 722 West Hatcher Road, Phoenix, AZ 85021.

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6 10. Defendant Carlos Alcantara Mijangos is also one of two individuals (the other being
7 Defendant Patricia E. Hernandez) specifically identified on the Arizona Corporations
8 Commission Entity Details No. L19022632 for Fandango Group, LLC as a Member.

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10 11. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
11 16, 2017 (the night of the *Program* at issue herein, as more specifically defined in paragraph
12 21), Defendant Patricia E. Hernandez had the right and ability to supervise the activities of
13 Las 15 Salsas Restaurant Oaxaqueno, which included the unlawful interception of Plaintiff's
14 *Program*.

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18 12. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
19 16, 2017 (the night of the *Program* at issue herein, as more specifically defined in paragraph
20 21), Defendant Carlos Alcantara Mijangos had the right and ability to supervise the activities
21 of Las 15 Salsas Restaurant Oaxaqueno, which included the unlawful interception of
22 Plaintiff's *Program*.

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1 13. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
2 16, 2017 (the night of the *Program* at issue herein, as more specifically defined in paragraph
3 21), Defendant Patricia E. Hernandez, as an individual specifically identified on the Arizona
4 Corporations Commission Entity Details for Fandango Group, LLC, had the obligation to
5 supervise the activities of Las 15 Salsas Restaurant Oaxaqueno, which included the unlawful
6 interception of Plaintiff's *Program*, and, among other responsibilities, had the obligation to
7 ensure that Las 15 Salsas Restaurant Oaxaqueno operated lawfully at all times.
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11 14. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
12 16, 2017 (the night of the *Program* at issue herein, as more specifically defined in paragraph
13 21), Defendant Carlos Alcantara Mijangos, as an individual specifically identified on the
14 Arizona Corporation Commission Entity Details for Fandango Group, LLC, had the
15 obligation to supervise the activities of Las 15 Salsas Restaurant Oaxaqueno, which included
16 the unlawful interception of Plaintiff's *Program*, and, among other responsibilities, had the
17 obligation to ensure that Las 15 Salsas Restaurant Oaxaqueno operated lawfully at all times.
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20 15. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
21 16, 2017 (the night of the *Program* at issue herein, as more specifically defined in paragraph
22 21), Defendants Patricia E. Hernandez and Carlos Alcantara Mijangos, specifically directed
23 or permitted the employees of Las 15 Salsas Restaurant Oaxaqueno to unlawfully intercept
24 and broadcast Plaintiff's *Program* at Las 15 Salsas Restaurant Oaxaqueno, or intentionally
25 intercepted, and/or published the *Program* at Las 15 Salsas Restaurant Oaxaqueno
26 themselves. The actions of the employees of Las 15 Salsas Restaurant Oaxaqueno are
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1 directly imputable to Defendants Patricia E. Hernandez and Carlos Alcantara Mijangos by
2 virtue of their acknowledged responsibility for the operation of Las 15 Salsas Restaurant
3 Oaxaqueno.
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5 16. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
6 16, 2017, Defendant Patricia E. Hernandez, as a managing member and as an individual
7 specifically identified on the Arizona Corporations Commission Entity Details for Fandango
8 Group, LLC, had an obvious and direct financial interest in the activities of Las 15 Salsas
9 Restaurant Oaxaqueno, which included the unlawful interception of Plaintiff's *Program*.
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12 17. Plaintiff is informed and believes, and alleges thereon that on Saturday, September
13 16, 2017, Defendant Carlos Alcantara Mijangos, as a managing member and as an individual
14 specifically identified on the Arizona Corporation Commission Corporations Division Entity
15 Details for Fandango Group, LLC, had an obvious and direct financial interest in the
16 activities of Las 15 Salsas Restaurant Oaxaqueno, which included the unlawful interception
17 of Plaintiff's *Program*.
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21 18. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of
22 Plaintiff's *Program*, as supervised and/or authorized by Defendants Patricia E. Hernandez
23 and Carlos Alcantara Mijangos resulted in increased profits for Las 15 Salsas Restaurant
24 Oaxaqueno.
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1 19. Plaintiff is informed and believes, and alleges thereon that Defendant, Fandango
2 Group, LLC is an owner, and/or operator, and/or licensee, and/or permittee, and/or person
3 in charge, and/or an individual with dominion, control, oversight and management of the
4 commercial establishment doing business as Las 15 Salsas Restaurant Oaxaqueno operating
5 at 722 West Hatcher Road, Phoenix, AZ 85021.
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8 **COUNT I**

9 **(Violation of Title 47 U.S.C. Section 605)**
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11 20. Plaintiff G & G Closed Circuit Events, LLC, hereby incorporates by reference all of
12 the allegations contained in paragraphs 1-19, inclusive, as though set forth herein at length.
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15 21. Pursuant to contract, Plaintiff G & G Closed Circuit Events, LLC, was granted the
16 exclusive nationwide commercial distribution (closed-circuit) rights to *Gennady Golovkin v.*
17 *Saul Alvarez IBF World Middleweight Championship Fight Program*, telecast nationwide
18 on Saturday, September 16, 2017 (this included all under-card bouts and fight commentary
19 encompassed in the television broadcast of the event, hereinafter referred to as the
20 "*Program*").
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24 22. Pursuant to contract, Plaintiff G & G Closed Circuit Events, LLC, entered into
25 subsequent sublicensing agreements with various commercial entities throughout North
26 America, including entities within the State of Arizona, by which it granted these entities
27 limited sublicensing rights, specifically the rights to publicly exhibit the *Program* within
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1 their respective commercial establishments in the hospitality industry (i.e., hotels, racetracks,
2 casinos, bars, taverns, restaurants, social clubs, etc.).

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4 23. As a commercial distributor and licensor of sporting events, including the *Program*,
5 Plaintiff G & G Closed Circuit Events, LLC, expended substantial monies marketing,
6 advertising, promoting, administering, and transmitting the *Program* to its customers, the
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8 aforementioned commercial entities.

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10 24. With full knowledge that the *Program* was not to be intercepted, received, published,
11 divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, the
12 above named Defendants, either through direct action or through actions of employees or
13 agents directly imputable to Defendants (as outlined in paragraphs 7-19 above), did
14 unlawfully intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the
15 time of its transmission at their commercial establishment in Phoenix, Arizona located at
16 722 West Hatcher Road, Phoenix, AZ 85021.
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20 25. Said unauthorized interception, reception, publication, exhibition, divulgence,
21 display, and/or exhibition by each of the Defendants was done willfully and for purposes of
22 direct and/or indirect commercial advantage and/or private financial gain.
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25 26. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of
26 communications (such as the transmission of the *Program* for which Plaintiff G & G Closed
27 Circuit Events, LLC, had the distribution rights thereto).
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1 27. By reason of the aforesaid mentioned conduct, the aforementioned Defendants
2 violated Title 47 U.S.C. Section 605, *et seq.*

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4 28. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*,
5 Plaintiff G & G Closed Circuit Events, LLC, has the private right of action pursuant to Title
6 47 U.S.C. Section 605.

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9 29. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section
10 605, and pursuant to said Section 605, Plaintiff G & G Closed Circuit Events, LLC, is entitled
11 to the following from each Defendant:

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14 (a) Statutory damages for each violation in an amount to
15 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii);

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18 (b) Statutory damages for each willful violation in an amount to
19 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii); and

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21 (c) The recovery of full costs, including reasonable attorneys' fees,
22 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

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1 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

2 **COUNT II**

3 **(Violation of Title 47 U.S.C. Section 553)**

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6 30. Plaintiff hereby incorporates by reference all of the allegations contained in
7 paragraphs 1-29, inclusive, as though set forth herein at length.

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9 31. The unauthorized interceptions, reception, publication, divulgence, display, and/or
10 exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C.
11 Section 553, *et seq.*

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14 32. By reason of the aforesaid mentioned conduct, the aforementioned Defendants
15 violated Title 47 U.S.C. Section 553, *et seq.*

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18 33. By reason of the Defendants' violation of Title 47 U.S.C. Section 553, *et seq.*,
19 Plaintiff G & G Closed Circuit Events, LLC, has the private right of action pursuant to Title
20 47 U.S.C. Section 553.

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22 34. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section
23 553, Plaintiff G & G Closed Circuit Events, LLC, is entitled to the following from each
24 Defendant:

- 25
26 (a) Statutory damages for each violation in an amount to
27 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii);
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1 (b) Statutory damages for each willful violation in an amount to
2 \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B);
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4 (c) The recovery of full costs pursuant to Title 47 U.S.C. Section 553
5 (c)(2)(C); and
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8 (d) In the discretion of this Honorable Court, reasonable attorneys' fees,
9 pursuant to Title 47 U.S.C. Section 553(c)(2)(C).
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12 **WHEREFORE, Plaintiff prays for judgment as set forth below.**
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14 **As to the First Count:**

- 15 1. For statutory damages in the amount of \$110,000.00 against the Defendants,
16 and each of them;
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18 2. For reasonable attorneys' fees as mandated by statute;
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20 3. For all costs of suit, including, but not limited to, filing fees, service of
21 process fees, investigative costs; and
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23 4. For such other and further relief as this Honorable Court may deem just and
24 proper.

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As to the Second Count:

1. For statutory damages in the amount of \$60,000.00 against the Defendants, and each of them;
2. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to statute;
3. For all costs of suit, including, but not limited to, filing fees, service of process fees, investigative costs; and
4. For such other and further relief as this Honorable Court may deem just and proper.

Respectfully submitted,

Date: August 22, 2018

/s/ Thomas P. Riley

LAW OFFICES OF THOMAS P. RILEY, P.C.

By: Thomas P. Riley

Attorneys for Plaintiff

G & G Closed Circuit Events, LLC

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